

Donuts Inc. Response to National Telecommunications and Information Administration's Further Notice of Inquiry on the Internet Assigned Names and Numbers Authority (IANA) Functions

Dear Ms. Alexander,

Thank you for the opportunity to comment on proposed changes to the IANA Statement Of Work (SOW). As a potential new gTLD applicant, we would like to focus our comments on a specific provision, the proposed paragraph C.2.2.1.3.2 that requires "*delegation requests for new gTLDs include documentation demonstrating how the string proposed reflects consensus among relevant stakeholders and is supportive of the global public interest.*"

The recently approved ICANN New TLD Applicant Guidebook (AG) recognizes and balances the views of relevant stakeholders potentially affected by a new gTLD. It does not, however, require consensus support from such stakeholders for a variety of reasons.

One reason is competition. A new entrant to an industry, empowered by a relevant TLD, would find it very difficult to gain consensus support from relevant stakeholders, many of whom would be competitors. Requiring consensus support from all relevant stakeholders has anti-competitive implications, as it can give cartel-like control to existing industry players.

Another reason is innovation. Business innovation that satisfies consumer needs, creates jobs and generates taxes is rarely the result of projects requiring widespread community consensus and endorsement. Rather, innovation tends to come from small and autonomous entities, which place their capital at risk in pursuit of a vision that is often not seen by the broader community. Requiring widespread stakeholder endorsement of TLD projects could stifle such innovation.

The AG recognizes the importance of stakeholder involvement and institutionalizes it in a variety of ways (e.g. public comment, objection procedures, community scoring requirements, and abuse and malicious activity controls). The AG has found a good balance for this issue. It seeks stakeholder input to minimize potential abuses and harms, but does not allow such stakeholder input to stifle competition and innovation.

Similar to several other NOI commentators, we are concerned the new C.2.2.1.3.2 language could be used to challenge and circumvent the procedures for stakeholder participation developed in the AG over the last three years. The proposed SOW language is very broad and could be used by dissatisfied or incumbent entities to engineer challenges to any TLD award.

We understand that the draft language was not intended to create new standards for defining ‘consensus’ or ‘relevant stakeholders’, nor was it intended to supplant procedures for managing stakeholder involvement in such documents as the AG.

Given all of the above, we think the SOW would be improved by amending section C.2.2.1.3.2 as follows:

“a requirement that delegation requests for new gTLDs include documentation demonstrating how the string proposed reflects the opportunity for input from relevant stakeholders and the process utilized was supportive of the global public interest”.

We think this amended text will better represent the NTIA’s intent and, importantly, will reduce any unintended consequences on competition and innovation, which may occur if the current proposed text is retained.

Yours sincerely,

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July 29, 2011